United Nations A/HRC/31/37

General Assembly

Distr.: General
29 January 2016

Original: English

Human Rights Council
Thirty-first session
Agenda items 2 and 3
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Protection of the family: contribution of the family to the realization of the right to an adequate standard of living for its members, particularly through its role in poverty eradication and achieving sustainable development

Report of the United Nations High Commissioner for Human Rights

Summary

The present report is submitted pursuant to Human Rights Council resolution 29/22, in which the Council requested the United Nations High Commissioner for Human Rights to prepare a report on the impact of the implementation by States of their international obligations with regard to the protection of the family and on the contribution of families in realizing the right to an adequate standard of living for their members for presentation to the Council at its thirty-first session.

The report is divided into five sections. Section I contains a brief introduction, while the evolution of the current international consensus regarding the role of the family in sustainable development, including poverty reduction policies is described in section II. An overview of the international human rights standards pertaining to family life and the elements of a human rights-based approach to family policies are given in section III, while concrete examples of measures taken by States in implementing their international obligations regarding the protection of the family are provided in section IV. Conclusions and recommendations are put forward in section V of the report.

GE.16-01276(E)

Please recycle

Contents

		Page
I.	Introduction	3
II.	Role of families in poverty eradication and sustainable development: an international policy framework	4
	A. Evolution of the international policy framework	5
	B. Status of the family in relation to the 2030 Agenda for Sustainable Development	6
III.	Provisions of international human rights law pertaining to the family	7
	A. Definition of family	7
	B. Right to marry and to found a family	9
	C. Right to privacy and family life	10
	D. Right to equality in the family	11
	E. Right not to be subject to violence or abuse within the family	13
	F. State obligations with regard to the protection of the family	14
IV.	Implementation of State obligations: a review of comparative practices	14
	A. Legal instruments	15
	B. Specialized agencies and governmental bodies	16
	C. Family-based approaches to policymaking	16
	D. Family-focused anti-poverty policies	16
	E. Social security	17
	F. Other social protection measures	17
	G. Special programmes for vulnerable children	17
V.	Conclusions and recommendations	18

I. Introduction

1. In its resolution 29/22, the Human Rights Council requested the United Nations High Commissioner for Human Rights to prepare a report on the impact of the implementation by States of their obligations under relevant provisions of international human rights law with regard to the protection of the family, and on the contribution of families in realizing the right to an adequate standard of living for their members, particularly through their role in poverty eradication and in achieving sustainable development, while giving due consideration to the status of the family in the developments related to the ongoing work on the future sustainable development goals and the post-2015 development agenda, and to present it to the Council at its thirty-first session.

2. In that same resolution, the Human Rights Council built on its resolution 26/11, in which it had stated that the preparations for and the observance of the twentieth anniversary of the International Year of the Family in 2014 would provide a unique opportunity for increasing cooperation at all levels on family issues and for taking concerted actions to strengthen family-centred policies and programmes, and decided to convene a panel discussion on the protection of the family and its members in September 2014 (see A/HRC/28/40).

3. In December 2014, during its sixty-ninth session, the General Assembly held a plenary meeting on the observance of the twentieth anniversary of the International Year of the Family to discuss the role of family-oriented policies in the post-2015 development agenda.[1]

4. The 2030 Agenda for Sustainable Development, adopted on 25 September 2015, identified the potential of families to contribute to the achievement of the Sustainable Development Goals, including the eradication of poverty and the creation of just, inclusive and secure societies.

5. The recognition of the role of families in development is not new; international instruments have long recognized the positive functions that families have the potential to perform towards the development of their members and the wider community. The Universal Declaration of Human Rights (art. 16 (3)) and the International Covenant on Civil and Political Rights (art. 23 (1)) state that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State. Other human rights instruments reaffirm that recognition in similar terms. For example, the International Covenant in Economic, Social and Cultural Rights requires States parties to recognize that:

> The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children (art. 10 (1)).

6. Recognition of the family as the fundamental unit of society can be found in the Convention on the Rights of the Child (fifth preambular paragraph), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (art. 44 (1)) and the Convention on the Rights of Persons with Disabilities (preamble, para. x). Those instruments further highlight the role of families in protecting

[1] See General Assembly resolution 69/144 and the press release, "General Assembly, observing anniversary of international year, stresses essential role of family in socioeconomic development, argues over its proper definition", 3 December 2014. Available at www.un.org/press/en/2014/ga11594.doc.htm.

the human rights of their members and in providing them with an enabling environment for the enjoyment of those rights.[2]

7. International recognition of families as relevant actors in sustainable development and poverty eradication is directly connected to the acknowledgment of the potential of families to contribute to the realization of the right to an adequate standard of living of their members, including adequate food, clothing, housing, water and sanitation. Indeed, the very definition of that right under international law is inextricably connected to a family dimension.[3]

8. Prepared pursuant to Human Rights Council resolution 29/22, the present report provides an overview of the recognition of the role of families in the development process, as evidenced by the evolution of the international policy framework over the last decades and the parallel, but interrelated, protection of the family and protection of the rights of family members under international human rights law. The report also includes an analysis of the international obligations of States in relation to the protection of the family and aa comparative review of State practice in that area, as well as conclusions and recommendations.

9. For the preparation of the present report, a note verbale requesting input was sent to all Member States and written contributions were received from 24 States. Submissions were also received from civil society organizations, United Nations agencies and other intergovernmental organizations, as well as from national human rights institutions.[4] The report has also benefited from inputs from the special procedure mandate holders of the Human Rights Council.[5]

II. Role of families in poverty eradication and sustainable development: an international policy framework

10. The 2030 Agenda for Sustainable Development is the most recent expression of an international policy framework highlighting the relevance of families in the development process. However, that international consensus has a much longer history and has been forged in recent decades as part of wider development and social protection debates, advocating for strong family-focused policies as part of national and international efforts to ensure the realization of the right to an adequate standard of living, sustainable development and poverty reduction.

---

[2] See, for example, Convention on the Rights of the Child, art. 18 (2); Convention on the Rights of Persons with Disabilities, art. 23 (3).

[3] The International Covenant on Economic, Social and Cultural Rights (art. 11 (1)) enshrines the right of everyone to an adequate standard of living for himself and his family. Furthermore, the Committee on Economic, Social and Cultural Rights, in its general comment No. 4 (1991) on the right to adequate housing, states that the wording "himself and his family" should not be read as implying any limitations upon the applicability of the right to individuals or to female-headed households or to other such groups.

[4] All submissions are available from www.ohchr.org/EN/HRBodies/HRC/Pages/ProtectionFamily.aspx.

[5] See joint letter from four special procedure mandate holders to the President of the Human Rights Council (3 July 2015), available from www.ohchr.org/Documents/Issues/Women/WRGS/JointLetterPresidentHRCProtectionFamily.pdf; statement by the Chair of the Coordination Committee of Special Procedures (A/HRC/28/41, annex X); and letter from the Chair-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice to the President of the Human Rights Council (1 September 2015), available from www.ohchr.org/Documents/Issues/Women/WG/ProtectionOfFamily.pdf.

A. Evolution of the international policy framework

11. One of the first policy documents to signal that families had a role to play in development was the Declaration on Social Progress and Development, proclaimed by the General Assembly in its resolution 2542 (XXIV), in 1969. Article 4 of the Declaration affirms that the family, as the basic unit of society and the natural environment for the growth and well-being of all its members, should be assisted and protected so that it may fully assume its responsibilities with the community. The Declaration also incorporates a specific provision on family policies (art. 22) and sets out the means and methods for achieving the objectives of social progress and development (arts. 23-27).

12. Several initiatives within the United Nations development system subsequently built on those basic tenets. In 1983, the Economic and Social Council adopted its first resolution on the role of the family in the development process (resolution 1983/23), in which it called upon States to formulate and implement measures addressed to the welfare of the family as a whole, as part of development policies (para. 2).

13. Subsequently, the General Assembly adopted resolutions on the need to enhance international cooperation in the field of protection of and assistance to families,[6] which eventually led to the unanimous proclamation of 1994 as the International Year of the Family and to the adoption of resolutions on the preparations for and observance of the Year.[7] The observance of the Year represented recognition of the role of families as major agents of sustainable development at all levels of society.[8]

14. The awareness-raising activities for the Year proved essential in ensuring that the family was taken into consideration by the various international summits and conferences held under the auspices of the United Nations during the 1990s, including the World Conference on Human Rights (Vienna, 1993), the International Conference on Population and Development (Cairo, 1994), the Fourth World Conference on Women (Beijing, 1995) and the World Summit for Social Development (Copenhagen, 1995).[9] Other meetings and follow-up processes have also addressed the role of the family in development, social protection and poverty reduction policies.[10]

15. The internationally agreed texts adopted at those summits and conferences contributed to the crystallization of an international consensus on the role of families in development, which is still considered valid today.[11] That consensus encompasses: (a) the need for family-centred measures and approaches as part of development policies;[12] (b) the

---

[6] General Assembly resolutions 42/134 and 43/135.

[7] General Assembly resolutions 44/82, 45/133, 46/92 and 47/237.

[8] See General Assembly resolution 47/237, sixth preambular paragraph.

[9] See Vienna Declaration and Programme of Action, available from www.ohchr.org/EN/ProfessionalInterest/Pages/Vienna.aspx; Programme of Action of the International Conference on Population and Development, A/CONF.171/13, annex I; Beijing Declaration and Platform for Action, A/CONF.177/20, annex I; Copenhagen Declaration and Programme of Action, A/CONF.166/9, annex I.

[10] See World Programme of Action for Youth to the Year 2000 and Beyond, General Assembly resolution 50/81, annex; Istanbul Declaration on Human Settlements and the Habitat Agenda, A/CONF.165/14, annex I; and Political Declaration and Madrid International Plan of Action, Second World Assembly on Ageing (Madrid, 8-12 April 2002), art. 15 and paras. 101-105.

[11] See General Assembly resolution 68/136, 3rd preambular paragraph, noting that the outcomes of conferences and summits of the 1990s and their follow-up processes continue to provide policy guidance in relation to family policies).

[12] See Beijing Declaration and Platform for Action, para. 29; Istanbul Declaration on Human Settlements and the Habitat Agenda, paras. 31 and 40 (k); Programme of Action of the International

recognition of the various forms of family, depending on different cultural, political and social systems, as well as the changes undergone by the family as a social institution;[13] (c) the recognition of the principle of gender equality and that family policies should be based on and promote respect for equality between men and women;[14] (d) the need for special protection of family members who may be in a situation of vulnerability, including children, youth, the elderly or people with disabilities;[15] and (e) the integration of universal access to reproductive health services, including family planning and sexual health, as part of development efforts.[16]

16. Despite that consensus, family issues gradually lost saliency in subsequent development platforms. For instance, neither the Millennium Declaration nor its follow-up process contained any reference to the family. Nevertheless, the implementation of the Millennium Development Goals could not be divorced from family policies, particularly those related to poverty reduction, child and maternal mortality and children's education.[17]

17. The year 2014 marked the twentieth anniversary of the International Year of the Family and coincided with international debates regarding the post-2015 development agenda, focusing on the three related themes of poverty eradication, work-family balance and intergenerational solidarity.[18] The commemoration of the twentieth anniversary of the Year returned family policies to the centre of the social protection agenda and highlighted the need for family-centred interventions as part of an integrated comprehensive approach to development.[19]

B. Status of the family in relation to the 2030 Agenda for Sustainable Development

18. Adopted in September 2015, the 2030 Agenda for Sustainable Development highlights the role of families as development actors and expressly commits States to provide children and youth with a nurturing environment for the full realization of their rights and capabilities, including through cohesive communities and families.[20] The Sustainable Development Goals and targets reflect a broad range of objectives that are important for the protection of the family and its members, and for the realization of the right to an adequate standard of living for all families. In addition, families are recognized as key actors in the transmission of values that are vital for making the sustainable

---

Conference on Population and Development, principle 9, para. 5.8.; and Copenhagen Declaration and Programme of Action, para. 80.

[13] See also Istanbul Declaration on Human Settlements and the Habitat Agenda, para. 31; International Conference on Population and Development, principle 9, paras. 5.1-5.6; and Copenhagen Declaration and Programme of Action, para. 80.

[14] Beijing Declaration and Platform for Action, paras. 29 and 113-125; International Conference on Population and Development, principle 9, paras. 4.1-4.14; and Copenhagen Declaration and Programme of Action, para. 81(a).

[15] Beijing Declaration and Platform for Action, para. 29; Istanbul Declaration on Human Settlements and the Habitat Agenda, paras. 31 and 40(l); International Conference on Population and Development, principle 11, para. 5.8-5.13; Copenhagen Declaration and Programme of Action, para. 81(c).

[16] Beijing Declaration and Platform for Action, paras. 94-97 and 281(e); Istanbul Declaration on Human Settlements and the Habitat Agenda, paras. 127 (c) and 136 (f); International Conference on Population and Development, paras. 3.18 and 7.1-7.28.

[17] See A/66/62-E/2011/4, para. 7.

[18] See Economic and Social Council resolution 2011/29, para. 4.

[19] See General Assembly resolution 66/126, para. 4.

[20] See General Assembly resolution 70/1, annex, para. 25.

development agenda a reality, such as gender equality, respect for the environment and intergenerational solidarity.

19. Of the 17 Sustainable Development Goals, Goal 5, "Achieve gender equality and empower women and girls", sets out a number of particularly relevant commitments to help achieve gender equality within the family. Target 5.4 commits States to recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family. Also relevant are the specific targets to address equal rights to economic resources (target 5.a), elimination of discrimination and violence against women and girls (targets 5.1-5.3) and access to sexual and reproductive health and reproductive rights, which is expressly linked to the recommendations of previous world conferences (target 5.6).

20. Under the heading, "Promote just, peaceful, and inclusive societies", Goal 16 sets out a number of commitments that are relevant for the protection of family members, such as target 16.1 on ending all forms of violence; target 16.2 on ending abuse, exploitation, trafficking and violence against children; target 16.9 on providing legal identity and birth registration for all; and target 16.b on non-discrimination.

21. In a recent report, the Secretary-General underscored that adding families to the sustainable development agenda would represent a step in the direction of empowerment and reduction of inequality and contribute to the achievement of sustainable development goals (see A/69/61-E/2014/4, para. 68). In order to better reflect the role of families in the implementation of the 2030 Agenda for Sustainable Development, consideration needs to be given to human rights principles and standards as the foundation of the agenda, in particular those pertaining directly to family life.

III. Provisions of international human rights law pertaining to the family

22. International human rights instruments have long recognized that the family is the fundamental unit of society and that it performs valuable functions for its members and for the community as a whole. For those reasons, States bear the primary obligation to provide protection and assistance to the family so that it can fully assume those functions. At the same time, international standards do not prescribe a specific concept of family, which varies depending on the concrete historical, social, cultural and economic make-up of the community and of the life circumstances of family members.

23. Moreover, as the following review of international law and practice clearly shows, protection of the family in international law is indissolubly linked to the principle of equality, including gender equality, and to the protection of its individual members against all kinds of discrimination, violence or abuse within the family setting.

A. Definition of the family

24. There is no definition of the family under international human rights law. The Human Rights Committee notes that the concept of family may differ in some respects from State to State, and even from region to region within a State, and that is therefore not possible to give the concept a standard definition.[21] Similarly, the Committee on Economic,

[21] See Human Rights Committee, general comment No. 19 (1990) on the family, para. 2.

Social and Cultural Rights has stated that the concept of family must be understood in a wide sense and in accordance with appropriate local usage.[22] Other international human rights mechanisms have expressed similar views.[23]

25. The concept of family may also differ according to the specific rights and responsibilities at stake. For instance, in relation to the rights of the child, the concept of family may include a variety of arrangements that can provide for a young child's care, nurturance and development, including the nuclear family, the extended family and other traditional and modern community-based arrangements, provided these are consistent with the rights and the best interest of the child.[24] Likewise, the notion of "family environment" may encompass children's social ties in a wider sense.[25] The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families defines "members of the family" as persons in a relationship that, under applicable law, produces effects equivalent to marriage, as well as their dependent children and other dependent persons recognized as such by applicable legislation (arts. 4 and 44 (2)).

26. States retain some leeway in defining the concept of family in national legislation, taking into consideration the various legal systems, religions, customs or traditions within their society, including indigenous and minority cultures.[26] However, international standards set forth at least two minimum conditions for the recognition and protection of families at the national level: first, respect for the principle of equality and non-discrimination, including the equal treatment of women; and second, the effective guarantee of the best interest of the child.[27] Given those parameters, human rights mechanisms have found that some forms of relationships, such as polygamy and child marriage, are contrary to international human rights standards and should be prohibited.[28]

27. In addition to the above principles, international mechanisms have called upon States to protect specific forms of the family in view of the vulnerability of their members in relation to the enjoyment of human rights. For instance, attention has been drawn to the discrimination suffered by women and children in de facto unions and there have been calls for the regulation of those unions in domestic law.[29] In similar terms, the Committee on

---

[22] See Committee on Economic, Social and Cultural, general comment No. 4 (1991) on the right to adequate housing, para. 6; and general comment No. 5 (1994) on persons with disabilities, para. 30.

[23] See Committee on the Elimination of Discrimination against Women, general recommendation No. 21 (1994) on equality in marriage and family relations, paras. 13 and 18; and general recommendation No. 29 (2013) on the economic consequences of marriage, family relations and their dissolution, para. 24; Committee on the Rights of the Child, general comment No. 7 (2005) on implementing child rights in early childhood, para. 15; also A/HRC/29/40, paras. 23-24.

[24] See Committee on the Rights of the Child, general comment No. 7, para. 15.

[25] See Committee on the Rights of the Child, general comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, para 70.

[26] See Human Rights Committee, general comment No. 16 (1988) on the right to privacy, para. 5; and CCPR/C/60/D/549/1993/Rev.1, para. 10.3.

[27] See International Covenant on Civil and Political Rights, art. 23(4); International Convention on the Elimination of All Forms of Discrimination against Women, arts. 2 and 5 (b); and Convention on the Rights of the Child, art. 18 (1).

[28] See Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee of the Rights of the Child (2014) on harmful practices, paras. 24-26.

[29] See Committee on the Elimination of Discrimination against Women, general recommendation No. 29, paras. 30-31; also A/HRC/29/40, para. 74 (c).

Economic, Social and Cultural Rights has called upon States to legally recognize same-sex couples.[30]

B. Right to marry and to found a family

28. The Universal Declaration of Human Rights (art. 16) and the International Covenant on Civil and Political Rights (art. 23 (2)) affirm the right of men and women of full, or marriageable, age to marry and to found a family. That right is expressly linked to the principle of non-discrimination and applies to men and women without any limitation due to race, nationality or religion. The principle of non-discrimination in that context is also stated in the Convention on the Elimination of All Forms of Discrimination against Women (art. 16 (1) (a)) and in the Convention on the Rights of Persons with Disabilities (art. 23 (1) (a)).

1. Right to freely choose a spouse and prohibition of forced marriage

29. The Universal Declaration of Human Rights provides that marriage shall be entered into only with the free and full consent of the intending spouses (art. 16 (2)). The same provision is included in the International Covenant on Civil and Political Rights (art. 23 (3)), the International Covenant on Economic, Social, and Cultural Rights (art. 10 (1)), the Convention on the Elimination of All Forms of Discrimination against Women (art. 16 (1) (b)) and the Convention on the Rights of Persons with Disabilities (art. 23 (1) (a)).

30. A logical corollary of the right to freely choose a spouse is the prohibition of forced marriage, which especially affects women and girls. Forced marriages may take various forms, such as an exchange or trade-off; they may be servile, levirate or contractual; or they may be contracted through payment or preferment, all of which are considered practices similar to slavery. Such marriages should not be recognized by the State as legally valid or subsequently rectifiable.[31] Similarly, international norms proscribe the forced dissolution of the marriage bond, including subjecting the change of legal gender to the requirement of dissolution of a previous marriage or civil partnership.[32]

2. Definition of marriageable age and prohibition of child marriage

31. International and regional instruments are unanimous on the minimum age at which the right to marry or to found a family may be exercised. The Convention on the Elimination of All Forms of Discrimination against Women (art. 16 (2)), as well as the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (art. 2) require States to establish a minimum age for marriage in their domestic legislation. The Committee on the Elimination of Discrimination against Women and the Committee on Economic, Social and Cultural Rights have stated that the minimum age for

[30] See E/C.12/BGR/CO/4-5, para. 17; E/C.12/SVK/CO/2, para. 10; the Committee's general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights, paras. 26 and 31; and A/HRC/29/23, para. 79 (h).

[31] See Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956), art. 1 (c); Committee on the Elimination of Discrimination against Women, general recommendation No. 21(1994) on equality in marriage and family relations, para. 16; and Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee of the Rights of the Child (2014) on harmful practices, para. 24.

[32] See CCPR/C/IRL/CO/4, para. 7; also A/HRC/29/23, paras. 69-70 and 79 (i).

marriage should be 18 years and that the legal age of marriage should be the same for men and women.[33]

32. Correspondingly, child marriages as well as child betrothals — practices that disproportionately affect girls — are prohibited under international human rights law and when performed as a source of economic benefit or labour, such practices are considered analogous to slavery.[34] Marriage below the age of 18 should be allowed only in exceptional circumstances, provided that the child is at least 16 years old and the process is subject to judicial review.[35]

3. Right to decide on the number and spacing of children

33. The Convention on the Elimination of All Forms of Discrimination against Women states that women have the same rights as men to decide freely and responsibly on the number and spacing of their children (art. 16 (1) (e)). That right is reaffirmed in the Convention on the Rights of Persons with Disabilities (art. 23 (1) (a)). In order to support the exercise of that right, international law requires States to provide access to family planning as part of health-care services.[36] All individuals, including adolescents, have equal rights to access sexual and reproductive health services and information. That requires particular attention in order to prevent coercion and to remove third-party consent requirements for women and adolescents to access those services.[37]

C. Right to privacy and family life

34. The Universal Declaration of Human Rights provides that no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence (art. 12). Similar provisions are found in the International Covenant on Civil and Political Rights (art. 17 (1)) and in other United Nations instruments.[38] That right has been interpreted broadly to encompass, inter alia, protection against forced evictions, demolition of homes or property, destruction of traditional burial grounds and expulsion of foreigners.[39] The right to family

---

[33] See Committee on the Elimination of Discrimination against Women, general recommendation No. 21, para. 36; Committee on Economic, Social and Cultural Rights, general comment No. 16, para. 27.

[34] Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956), arts. 1(d) and 2.

[35] See Committee on the Elimination of Discrimination against Women, general recommendation No. 21, para. 36.

[36] International Convention on the Elimination of All Forms of Discrimination against Women, arts. 10 (h), 16 (1) (e), 12 (1) and 14 (2) (b); Convention on the Rights of the Child, art. 24 (2) (f); Convention on the Rights of Persons with Disabilities, arts. 23 (1) (b) and 25 (a).

[37] Committee on the Elimination of Discrimination against Women, general recommendation No. 21, para. 22; and general recommendation No. 24 (1999) on women and health, paras. 17-18 and 23-28; Committee on the Rights of the Child, general comment No. 4 (2003) on adolescent health and development in the context of the Convention, para. 24; and general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health, para. 69.

[38] See Convention on the Rights of the Child, art. 16; International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, art. 14; Convention on the Rights of Persons with Disabilities, art. 22 (1).

[39] See Committee on the Elimination of Racial Discrimination, general recommendation No. 30 (2005) on discrimination against non-citizens, para. 28; and general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, para. 37; CCPR/C/BGR/CO/3, para. 24; CCPR/C/KEN/CO/3, para. 24; CCPR/CO/78/ISR, para. 16; CCPR/C/60/D/549/1993/Rev.1, para. 10.3; also Committee on Migrant Workers, general

life also applies to persons deprived of their liberty, who should be allowed to communicate with their families, subject only to reasonable restrictions established by law.[40]

35. The right to family life is reflected in the general preference for preserving the family unit and not separating its members, particularly dependent members. The Convention on the Rights of the Child affirms the right of children not to be separated from their parents against their will, except where necessary for the best interest of the child, such as in cases of abuse or neglect (art. 9 (1)), following a judicial determination to that effect. Children deprived of their family environment should be provided with alternative care (art. 20) and, whenever possible, have contact with their parents (art. 9 (3)). According to the Convention on the Rights of Persons with Disabilities (art. 23 (4)), in no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents.

36. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families requires States to ensure the protection of the unity of the families of migrant workers, including by facilitating the reunification of documented migrants with their spouses and dependent children (art. 44). The Convention on the Rights of the Child urges States parties to deal with such requests in a positive, humane and expeditious manner (art. 10).

D. Right to equality in the family

1. Equality between men and women

37. Equality between men and women is an essential component of the international protection of the family. This principle is codified in the Universal Declaration of Human Rights (art. 16 (1)) and in the International Covenant on Civil and Political Rights (art. 23 (4)), which affirm the equal rights of both men and women as to marriage, during marriage and at its dissolution, and is also mentioned in the International Covenant on Economic, Social and Cultural Rights.[41]

38. Achieving equality between men and women in the family is one of the objectives of the Convention on the Elimination of All Forms of Discrimination against Women. The Convention requires States to take measures to modify practices based on stereotyped roles of men and women, including those based on social and cultural patterns of conduct, and to recognize the common responsibility of both men and women in the upbringing and development of their children (art. 5). Moreover, article 16 of the Convention recognizes the equality of men and women in all matters relating to marriage and family relations, including entering into marriage, during marriage and at its dissolution, including the right as parents to decide on the number and spacing of their children, guardianship of their children, choice of family name, profession and occupation, and ownership, administration,

---

comment No. 2 (2013) on the rights of migrant workers in an irregular situation and members of their families, para. 50.

[40] See Convention on the Rights of the Child, art. 37 (c); International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, art. 17 (5); International Convention for the Protection of All Persons from Enforced Disappearance, art. 17 (2) (d).

[41] Committee on Economic, Social, and Cultural Rights, general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights, para. 27.

enjoyment and disposition of property. Those aspects have been the object of detailed discussion in international jurisprudence.[42]

39. In recent reports, the Working Group on the issue of discrimination against women in law and in practice has described the many legal, economic, social and cultural barriers that prevent women from achieving full equality in the family context. These include obstacles to economic opportunities for women resulting from reproduction and care functions, as well as State, religious or customary norms that reinforce patriarchal family structures.[43]

40. The principle of equality between men and women connects with the obligation of States to promote reconciliation between work and family responsibilities.[44] The main international instruments in this area are the International Labour Organization Workers with Family Responsibilities Convention, 1981 (No. 156), and Workers with Family Responsibilities Recommendation, 1981 (No. 165). Convention No. 156 requires States parties to adopt policies aimed at ensuring that persons with family responsibilities can exercise the right to work without discrimination, and to help them reconcile their employment and family responsibilities (art. 3).

2. Equality of children

41. International human rights law protects children from being discriminated against within the family on the basis of gender, disability, family status or any grounds and calls upon States to recognize children as rights holders.[45] In addition, family responsibilities should be discharged equally for boys and girls, especially in relation to access to education, food and health care.[46]

42. Furthermore, States should ensure that children with disabilities enjoy equal rights as other children in relation to family life, including preventing their concealment, abandonment, neglect and segregation.[47] Children born of de facto unions or out of wedlock should also enjoy equal rights in relation to those born to married couples, including the rights to be registered and to have a name.[48] The Committee on the Rights of the Child has called upon States to protect children from discrimination based on their own or their parents' or legal guardian's sexual orientation or gender identity.[49]

---

[42] Human Rights Committee, general comment No. 28; Committee on Economic, Social, and Cultural Rights, general comment No. 16; Committee on the Elimination of Discrimination against Women, general recommendations No. 21 and No. 29.

[43] See A/HRC/26/39, paras. 81-97; and A/HRC/29/40, paras. 34-61.

[44] Convention on the Elimination of All Forms of Discrimination against Women, art. 11 (2).

[45] Committee on the Rights of the Child, general comments No. 5, para. 21; No. 7, para. 3; and No. 14, para. 16.

[46] See Human Rights Committee, general comment No. 28, para. 28.

[47] Convention on the Rights of Persons with Disabilities, art. 23 (3).

[48] See Committee on the Elimination of Discrimination against Women, general recommendation No. 21, para. 19; and Human Rights Committee, general comment No. 17 (1989) on the rights of the child, para 7.

[49] See Committee on the Rights of the Child, general comment No. 15 para. 8; also A/HRC/29/23, para. 79 (h).

E. Right not to be subject to violence or abuse within the family

1. Violence against women

43. Family or domestic violence is one of the most insidious forms of violence against women and is prevalent in all societies.[50] The Declaration on the Elimination of Violence against Women (see General Assembly resolution 48/104) states that this form of violence includes battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation (art. 2 (a)). In addition, the Declaration puts forward the notion of State due diligence, which requires the State to prevent, investigate and punish acts of violence against women committed by private actors, including in the family context (art. 4 (c)). International mechanisms have also expressed concern about harmful traditional practices as forms of violence against women and girls in the family context.[51]

2. Violence and abuse against children, including corporal punishment

44. The Convention on the Rights of the Child (art. 19 (1)) requires States parties to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation in the family context. This prohibition includes all forms of abuse of children based on their gender, sexual orientation or disability.[52] According to the Committee on the Rights of the Child, the prohibition encompasses corporal punishment of children, as well as any other cruel or degrading forms of punishment within the family.[53]

45. Under the Convention, protection of the child against violence or abuse also encompasses sexual abuse (art. 19 (1)). As stated by the Special Rapporteur on the sale of children, child prostitution and child pornography, the family represents the first layer of a child's protective environment and the weakening of family structures put children at risk.[54] At the same time, families confronting poverty or social disruption may promote the exploitation of their children.[55]

3. Violence and abuse against persons with disabilities

46. The Convention on the Rights of Persons with Disabilities protects persons with disabilities from all forms of exploitation, violence and abuse, including within the home (art. 16 (1)). States parties must put in place effective legislative and policy measures in order to ensure that these practices are identified and investigated and that perpetrators are prosecuted (art. 16 (5)).

---

[50] Committee on the Elimination of Discrimination against Women, general recommendation No. 19 (1992) on violence against women, para. 6.

[51] See Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee of the Rights of the Child; also Special Rapporteur on traditional practices, Halima Embarek Warzazi, "Study on traditional practices affecting the health of women and children" (1991); E/CN.4/2002/83; and A/HRC/4/34.

[52] See A/HRC/19/41, para. 24; and A/HRC/29/23, paras. 22, 30 and 45.

[53] Committee on the Rights of the Child, general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, para. 5.

[54] A/25/48, para. 32.

[55] A/22/54, para. 38.

4. Violence and abuse against older persons

47. Older persons are vulnerable to neglect and to physical, psychological, emotional, sexual or financial abuse within the family.[56] The Madrid International Plan of Action on Ageing recommends specific actions to be taken by States to eliminate such abuse (para. 110). At the regional level, the Inter-American Convention on Protecting the Human Rights of Older Persons provides for the protection of older persons from any violence "within the family or household unit," including abandonment or negligence. States parties undertake to prevent any form of violence in the family or household unit and to ensure that older persons are treated with dignity (art. 9).

F. State obligations with regard to the protection of the family

48. Analysis of the evolving standards and practice within the United Nations human rights system reveals the existence of a clear international normative consensus, built around the recognition of the family as the fundamental social unit and of the various educational, nurturing and caring functions families perform for their members. That makes families relevant actors in promoting the enjoyment of the basic human rights of their members, including the rights to an adequate standard of living, notwithstanding the primary obligations of States in that regard. From that perspective, the recognition of the family as a social institution in international human rights law concurs with and builds upon the recognition of the role of families in poverty eradication and sustainable development (see paras. 11-17 above)

49. Derived from this recognition, international norms, starting with the foundational article 16 (3) of the Universal Declaration of Human Rights, affirm States' obligations with regard to the family. The International Covenant on Economic, Social and Cultural Rights calls upon States to accord the widest possible protection and assistance to families (art. 10), thus signalling that the implementation of State obligations in this area is not limited to formal recognition or non-interference, but also includes positive measures.

50. In implementing their international obligations, States should adopt a human rights-based approach that is grounded in international standards, as described above. Family policies should be guided by basic human rights principles, including equality and non-discrimination, and by respect for the rights of individual family members, notably those who might find themselves in a situation of vulnerability. A rights-based approach would provide substantive guidance for State intervention in priority areas, such as ensuring universal access to sexual and reproductive health services, including family planning, or promoting work-family balance.

IV. Implementation of State obligations: a review of comparative practices

51. Family policies may take a variety of forms. However, they are conventionally divided into two interrelated categories: explicit family policies, which are designed to achieve specific objectives relating to the family as a social institution; and implicit family policies, which, while not addressing the family unit directly, may have bearing on it.[57] The

[56] A/HRC/18/37, paras. 50-51.

[57] Department of Economic and Social Affairs, "Family policy in a changing world: promoting social protection and intergenerational solidarity", Report of the Expert Group meeting (Doha, 14-16 April 2009), pp. 8-9. Available at www.un.org/esa/socdev/family/meetings/egmreportdoha09.pdf.

responses received to the questionnaire that was distributed for the preparation of the present report bear witness to the variety of legal and policy measures taken by States with the aim of providing protection and assistance to the family.[58] The responses addressed several policy areas, ranging from specific measures for families living in poverty, social security and social protection measures, and measures aimed at the protection of specific family members.

A. Legal instruments

52. In some States, the family unit enjoys constitutional protection or protection under special laws. In Hungary, the Fundamental Law of Hungary and the Act on the Protection of Families (2011) prioritize support to families in the central budget planning. In Colombia, Law No. 1361 on the Integral Protection of the Family (2009) established the National Observatory on the Family and provides legal backing to the National Policy to Support and Strengthen the Family.

53. Other States reported changes to their general legislation aimed at enhancing protection of the family institution. In 2015, Argentina amended the Civil Code (Law No. 26994). The new Code establishes a system whereby couples can opt for the matrimonial regime of marital property or separation of property, provides for special protection of the family home and recognizes equal status to children born of assisted reproduction. Sweden recently reformed its criminal and civil law, which strengthens protection against forced marriage and child marriage, including abolition of the exemption to child marriage, introduction of more stringent criteria for recognizing foreign marriages and criminalization of unlawful coercion or exploitation to marry.

54. Several States have introduced changes in their legislation to allow for the legal recognition of relationships between persons of the same sex. In Argentina, the Egalitarian Marriage Law (No. 26618) expressly allows for same-sex marriages. In Sweden, the reform of the Marriage Code in 2009 made the definition of marriage gender neutral, thus granting people the right to marry regardless of the sex of the spouses. In other countries, same-sex couples are recognized by judicial action.[59]

55. Other States described legislation that recognizes unmarried couples or de facto unions. The Swedish Cohabitees Act (2003) provides minimum protection to members of de facto unions in the event of separation. In Chile, Law No. 20.830 (2015) or the Civil Union Agreement recognizes civil unions of same-sex and opposite-sex couples. As part of their domestic legislation regarding the family, many States reported the existence of special instruments aimed at protecting family members against violence and abuse.

56. In Bosnia and Herzegovina, the Law on Gender Equality affords protection against gender-based violence, while the territorial entities in the country have adopted legislation on domestic violence and protection of family members in that context. Similarly, Oman reported the existence of an overarching set of legislative measures to protect women from all forms of violence, including sexual and intra-family violence, as well as trafficking and new forms of slavery (see Royal Decrees No. 74/2007 and No. 126/2008).

57. In 2012, Trinidad and Tobago adopted the Children Act, which enhanced the legal protection of children against sexual abuse, prostitution and child pornography. The Act introduced reforms in several areas, including the definition of child; the introduction of

[58] Copies of all submissions can be found at www.ohchr.org/EN/HRBodies/HRC/Pages/ProtectionFamily.aspx.

[59] See submissions from Colombia, Mexico and the United States of America.

new statutory sexual offences against children and higher penalties to persons convicted of crimes against children; and a new minimum age for compulsory or basic education.

B. Specialized agencies and governmental bodies

58. In Azerbaijan, the State Committee on Family, Women and Children serves as a coordination forum for national efforts in cooperation with civil society organizations. The National Family Council of Cabo Verde and the National Technical Table on the Family of Colombia follow a similar multi-stakeholder model.

59. In addition to family councils, a number of States reported the existence of coordinating agencies at the executive level. For instance, in Mexico, the National System for Integral Family Development is the federal institution responsible for family welfare. In the United Arab Emirates, the official body responsible for family affairs is the Supreme Council for Motherhood and Childhood.

C. Family-based approaches to policymaking

60. In Mexico, the General Law on Social Development (2010) identifies the family as one of the subjects of development, along with individuals, social organizations and vulnerable groups. The law requires State authorities to provide families with development opportunities and to allow for their participation. Since 1993, the National Commission on Human Rights of Mexico, the ombudsman institution, has implemented the Childhood and Family Affairs Programme, which encourages the implementation of a human rights-based approach to national policymaking.

61. In 1996, the Islamic Republic of Iran adopted the policy document entitled "Main objectives and principles and policies to strengthen families", which defines a common action plan for family policies. All relevant executive agencies and entities are expected to implement the policy and to report annually on their activities in that area.

62. The Government of the United Kingdom of Great Britain and Northern Ireland introduced a "family test" in 2014 with the objective of ensuring that the policymaking process takes into consideration the potential impacts of new policies on family relationships. Among the various issues covered by the test, policymakers are requested to be aware of the potential direct and indirect impacts that a new policy can have on families most at risk and to address how to support those families.

D. Family-focused anti-poverty policies

63. Under the programme, "Families in their land", Colombia supports poverty reduction through myriad measures, which include support for housing, food security and labour and community support. The programme is tailored specifically to meet the needs of families affected by the armed conflict in the country, as well as the needs of returned or relocated families.

64. In Mexico, the Programme on Social Inclusion specifically targets families living in poverty. The programme aims to break the intergenerational poverty circle through capacity-building, monthly monetary allowances, scholarships and preventive health care, including vaccination and sexual education.

65. The Russian Federation has implemented special employment programmes to support families affected by the world financial crisis through targeted part-time employment, employment quotas, training and retraining opportunities. A Presidential

decree of 2012 provides for the training of women on extended maternity leave as well as special employment programmes for women taking care of dependent children.

E. Social security

66. In Argentina, family allowances cover various family situations, such as marriage, birth or adoption, and an annual child allowance is provided to families with school-age children. In addition, a universal child allowance is provided to families in certain circumstances, including to parents who are unemployed, who earn a salary equal to or lower than the national minimum salary, who work in the informal sector, or who are domestic or seasonal workers.

67. In Bosnia and Herzegovina, the main social security instruments of the territorial entities, as well as the Law on Social Protection, Protection of Civilian War Victims and Families with Children of the Federation of Bosnia and Herzegovina (1999) and the Law on Social Protection of Republika Srpska (1993) provide maternity allowance to women during pregnancy and childbirth.

68. In the Russian Federation, under the provisions of the Federal Law on State Subsidies to Individuals with Children (1995), the State provides a one-time allowance to women at the birth of a child, as well as monthly child allowances to single-parent families.

69. In Sweden, the Parental Leave Act affords both mothers and fathers the right to parental leave, as well as extended family leave and reduced working hours. Swedish social security grants parents economic compensation for income lost in order to stay home with a child. In addition, the Government grants automatic financial support to all children who are resident in the country.

F. Other social protection measures

70. In Argentina, the bicentenary credit plan for low-income families, known as PROCREAR, includes the concession of mortgages for the construction or repair of family homes. Hungary provides a social housing subsidy to families wishing to buy, build or expand a house. In the Russian Federation, housing programmes target families with special needs, such as young families and large families; modalities include access to credit, affordable mortgages and land allotments. In Sweden, housing allowances are granted to families with children living at home, as well as to low-income families.

71. As part of the National Plan on Food Security, the "Pro-orchard" programme in Argentina contributes to improving and diversifying family nutrition. In Colombia, the Food Security Network provides families with access to food and education on healthy consumption patterns. In addition, the Ethnic Differentiated Focus programme supports food security through an ethnically differentiated approach. Mexico implements a variety of programmes to support disadvantaged families under the Integral Social Food Assistance Strategy. Likewise, Saudi Arabia implements emergency cash and food programmes as part of wider government efforts to support low-income families and families in crisis situations.

G. Special programmes for vulnerable children

72. Many States reported on a number of institutional measures aimed at the protection of children, especially children in situations of vulnerability or risking marginalization, as a

central component of family policies. As indicated in one submission, the family is the first shield against any form of violation of children's rights.[60]

73. In Bahrain, a child protection centre was established in 2007 to provide social, psychological and legal assessment, treatment and follow-up services for child victims of ill-treatment, physical and sexual abuse, and psychological neglect. In Cabo Verde, a network of youth centres, emergency centres and tele-centres provides care, counselling and psychological support for children at risk. Chile has adopted a similar preventive approach to its child protection policy with 175 focused prevention programmes aimed at precluding violations of children rights. In Oman, child protection committees focus on preventing violence, exploitation and abuse.

74. The national action plan for orphans and vulnerable children of Zimbabwe supports the implementation of community-based child protection programmes and includes a central HIV and AIDS mitigation component. Child protection committees are responsible for the implementation of the action plan.

V. Conclusions and recommendations

75. **The review of international human rights law and practice is illustrative of a broad consensus regarding the potential contribution of families to the well-being and development of their members and of society as a whole. It further reveals the convergence of international human rights standards, on the one hand, and of the universally accepted outcomes of international conferences and summits, on the other, regarding the recognition of the role of families in ensuring the right to an adequate standard of living of their members, including by promoting sustainable development and poverty reduction. The 2030 Agenda for the Sustainable Development is the latest expression of that international consensus, committing States to promote cohesive families as part of an integrated and comprehensive approach to sustainable development.**

76. **The consensus regarding the role of families in sustainable development is grounded in a number of common elements, including the need to recognize the diverse and changing forms of the family institution, in accordance with the different social, cultural and economic characteristics of every society; the promotion of equality between men and women; and the effective protection and promotion of the rights of women, children, persons with disabilities, older persons and all family members, without distinction. Moreover, ensuring universal access to sexual and reproductive health services, including family planning, should be an integral part of development efforts.**

77. **The submissions received from States and other stakeholders reveal that the implementation by States of their obligation to protect and support families may take many forms, ranging from legal measures to a wide range of social protection policies and programmes, including family-focused policies as well as family-based approaches to general policymaking.**

78. **The design and implementation of policies in the context of the 2030 Agenda should be guided by a human-rights based approach that supports families in performing their valuable societal functions, while respecting and ensuring the effective realization of the rights of family members.**

---

[60] See submission from Association Pope John 23rd, p. 2.